



POLITICAL ACTIVITY

AND THE

FEDERAL EMPLOYEE

in 2003

4/21/2003

FEDERAL HATCH ACT

5 U.S.C. §§ 7321-7326



- Originally passed in 1939.
- Amended in 1993 to expand rights of most employees to actively participate in partisan political management and political campaigns.
- Certain agencies and employees continue to be further restricted.

FEDERAL HATCH ACT

5 U.S.C. §§ 7321-7326



- ACT APPLIES TO EMPLOYEES OF —
 - Federal Executive Agencies
 - United States Postal Service
 - District of Columbia Government
- INCLUDING
 - Part-time employees
 - Special government employees and others working on an occasional or intermittent basis, when engaged in government business
- DOES NOT APPLY TO PRESIDENT. VICE PRESIDENT, D.C. MAYOR & D.C. CITY COUNCIL

4/21/2003

FEDERAL HATCH ACT



TWO CATEGORIES OF EMPLOYEES:

EMPLOYEES OF INTELLIGENCE- AND ENFORCEMENT-TYPE AGENCIES

(Further Restricted)

- Except PAS

ALL OTHERS *(Less Restricted)*

- GS
- WG
- PAS
- Schedule C
- Noncareer SES

4/21/2003

FEDERAL HATCH ACT DOs

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



GENERALLY LESS RESTRICTED EMPLOYEES MAY—

- ASSIST IN PARTISAN VOTER REGISTRATION DRIVES
- EXPRESS OPINIONS ABOUT CANDIDATES AND ISSUES
- CONTRIBUTE MONEY TO POLITICAL ORGANIZATIONS
- ATTEND POLITICAL FUNDRAISING FUNCTIONS

FEDERAL HATCH ACT DOs

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



GENERALLY LESS RESTRICTED EMPLOYEES MAY—

- CAMPAIGN FOR OR AGAINST REFERENDUM QUESTIONS, CONSTITUTIONAL AMENDMENTS, AND MUNICIPAL ORDINANCES
- CAMPAIGN FOR OR AGAINST CANDIDATES IN PARTISAN ELECTIONS (including making campaign speeches and distributing campaign literature in partisan elections)

FEDERAL HATCH ACT DOs

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



GENERALLY LESS RESTRICTED EMPLOYEES MAY—

- ATTEND AND BE ACTIVE AT POLITICAL RALLIES AND MEETINGS
- JOIN AND BE ACTIVE MEMBERS OF A POLITICAL PARTY OR CLUB
- CIRCULATE AND SIGN NOMINATING PETITIONS
- BE CANDIDATES FOR PUBLIC OFFICE IN NONPARTISAN ELECTIONS

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



LESS RESTRICTED EMPLOYEES MAY NOT —

- USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION
- SOLICIT OR DISCOURAGE POLITICAL ACTIVITY OF ANYONE WITH BUSINESS BEFORE THEIR AGENCY
- SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS (MAY BE DONE IN CERTAIN LIMITED SITUATIONS BY FEDERAL LABOR OR OTHER EMPLOYEE ORGANIZATIONS)
- BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS

4/21/2003



WHEN DOES IT BEGIN?

- **WHEN AN INDIVIDUAL BEGINS TO COLLECT SIGNATURES FOR NOMINATING PETITIONS**
- **WHEN AN INDIVIDUAL BEGINS TO FUNDRAISE**
- **WHEN AN INDIVIDUAL MAKES AN ANNOUNCEMENT TO THE PRESS**
- **WHEN AN INDIVIDUAL FILES NOMINATING PETITIONS**
- **WHEN AN INDIVIDUAL PUTS A CAMPAIGN COMMITTEE TOGETHER**

BEWARE OF NONPARTISAN ELECTIONS/CANDIDACIES

5 U.S.C. § 7323



Nonpartisan can transform to partisan when:

- Standard: There is evidence showing that partisan politics actually entered the campaign of a candidate.
 - Employee/candidate seeks and receives endorsement of political party.
 - Employee/candidate advertises endorsement of political party.
 - Employee/candidate uses political party resources.
 - Employee/candidate announces he is political party candidate.

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART C



LESS RESTRICTED EMPLOYEES MAY NOT ENGAGE IN
POLITICAL ACTIVITY WHILE —

- ON DUTY
- IN A GOVERNMENT OFFICE
- WEARING AN OFFICIAL UNIFORM
- USING A GOVERNMENT VEHICLE

FEDERAL HATCH ACT

5 U.S.C. § 7324; 5 C.F.R. PART 734.101



POLITICAL ACTIVITY MEANS:

AN ACTIVITY DIRECTED TOWARD THE SUCCESS OR FAILURE OF A —

- POLITICAL PARTY
- CANDIDATE FOR PARTISAN POLITICAL OFFICE, OR
- PARTISAN POLITICAL GROUP

FEDERAL HATCH ACT: EOP / PAS COVERAGE

5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



● EMPLOYEES —

- PAID FROM APPROPRIATION FOR EXECUTIVE OFFICE OF THE PRESIDENT (EOP), OR
- PRESIDENTIALLY APPOINTED, SENATE-CONFIRMED (PAS)

● WHO —

- OCCUPY POSITIONS LOCATED IN THE U.S., AND
- DETERMINE POLICIES TO BE PURSUED IN
 - RELATIONS WITH FOREIGN POWERS, OR
 - NATIONWIDE ADMINISTRATION OF FEDERAL LAWS

**FEDERAL HATCH ACT:
EOP / PAS COVERAGE (CONT'D)**
5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



SUCH PAS and EOP EMPLOYEES MAY ENGAGE IN POLITICAL ACTIVITY WHILE —

- ***ON DUTY***
- ***IN A GOVERNMENT ROOM OR BUILDING***
- ***WEARING A UNIFORM OR OFFICIAL INSIGNIA***
- ***USING A GOVERNMENT VEHICLE***

IF COSTS ASSOCIATED WITH POLITICAL ACTIVITY ARE NOT PAID FOR BY MONEY DERIVED FROM THE U.S. TREASURY

4/21/2003

FEDERAL HATCH ACT: RESTRICTED AGENCIES

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **CRIMINAL DIVISION (DOJ)**
- **CENTRAL INTELLIGENCE AGENCY**
- **DEFENSE INTELLIGENCE AGENCY**
- **FEDERAL BUREAU OF INVESTIGATION**
- **FEDERAL ELECTIONS COMMISSION**
- **MERIT SYSTEMS PROTECTION BOARD**
- **NATIONAL IMAGERY AND MAPPING AGENCY**

4/21/2003

FEDERAL HATCH ACT: RESTRICTED AGENCIES

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **NATIONAL SECURITY AGENCY**
- **NATIONAL SECURITY COUNCIL**
- **OFFICE OF CRIMINAL INVESTIGATION (IRS)**
- **OFFICE OF INVESTIGATIVE PROGRAMS (CUSTOMS)**
- **OFFICE OF LAW ENFORCEMENT (BATF)**
- **OFFICE OF SPECIAL COUNSEL**
- **SECRET SERVICE**

4/21/2003

FEDERAL HATCH ACT: RESTRICTED POSITIONS

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **CAREER SES**
- **ADMINISTRATIVE LAW JUDGES**
- **MEMBERS OF CONTRACTS APPEALS BOARDS**

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



FURTHER RESTRICTED EMPLOYEES MAY NOT —

- **USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION**
- **SOLICIT OR DISCOURAGE POLITICAL ACTIVITY OF ANYONE WITH BUSINESS BEFORE THEIR AGENCY**
- **SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS (MAY BE DONE IN CERTAIN LIMITED SITUATIONS BY FEDERAL LABOR OR OTHER EMPLOYEE ORGANIZATIONS)**
- **BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS**

4/21/2003

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART D



**FURTHER RESTRICTED EMPLOYEES MAY NOT ENGAGE IN
POLITICAL ACTIVITY WHILE —**

- **ON DUTY**
- **IN A GOVERNMENT OFFICE**
- **WEARING AN OFFICIAL UNIFORM**
- **USING A GOVERNMENT VEHICLE**

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



**FURTHER RESTRICTED EMPLOYEES MAY NOT ENGAGE IN
PARTISAN POLITICAL CAMPAIGNING AND POLITICAL
MANAGEMENT-**

- Make campaign speeches
- Distribute campaign literature
- Organize a political rally, meeting or fundraiser
- Hold political party office or be a party delegate
- Participate in partisan voter registration drives
- Circulate nominating petitions

4/21/2003 ● **KEY: NO ACTIVITY IN CONCERT WITH A POLITICAL PARTY OR
CANDIDATE**

**FEDERAL HATCH ACT DOs:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



FURTHER RESTRICTED EMPLOYEES MAY—

- Join political clubs or parties
- Express opinions about candidates and issues
- Sign nominating petitions
- Attend political rallies and conventions
- Participate in nonpartisan activities

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- **Less restricted employees who reside in designated localities may –**
 - **Run** as independent candidates in partisan elections for local office in that designated locality
 - **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may not **solicit** a federal employee)
 - **Accept or receive** a political contribution for a partisan candidate for local office (except from a subordinate)
 - **Solicit, accept or receive** uncompensated volunteer services in the preceding three instances (except from a subordinate)

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- Further restricted employees who reside in designated localities may –
 - **Run** as independent candidates in partisan elections for local office in that designated locality
 - **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may not **solicit** a federal employee or **accept or receive** a political contribution from a subordinate)
 - **Solicit, accept or receive** uncompensated volunteer services in the preceding two instances (except from a subordinate)

PENALTIES FOR VIOLATION (FEDERAL HATCH ACT)

5 U.S.C. § 7326



MERIT SYSTEMS PROTECTION BOARD MAY ORDER
EMPLOYEE'S —

- REMOVAL

OR

- SUSPENSION (30-DAY MINIMUM)

STATE AND LOCAL EMPLOYEES

5 U.S.C. §1501-1508



Who is covered?

State/local employees

- executive branch
- principal employment
- in connection with an activity that is federally financed

Key: Does the employee perform duties in connection with a federally funded program? Salary is not controlling.

FEDERAL HATCH ACT: OSC PHONE / E-MAIL CONTACTS



HATCH ACT UNIT:

(800) 85-HATCH

(202) 653-7143

hatchact@osc.gov

PUBLIC INFORMATION:

(202) 653-2253

OSC SPEAKERS / OUTREACH:

(202) 653-6006

OSC WEB SITE (<http://www.osc.gov>)



U.S. OFFICE OF SPECIAL COUNSEL

PROTECTING FEDERAL WHISTLEBLOWERS
**INVESTIGATING AND PROSECUTING PROHIBITED
PERSONNEL PRACTICES**
RECEIVING WHISTLEBLOWER DISCLOSURES
ENFORCING THE HATCH ACT

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A MESSAGE FROM ELAINE KAPLAN, SPECIAL COUNSEL

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Last updated: 3/5/99